

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

JAYSON B. KENISTON,

Plaintiff,

vs.

DURGA SATYAVOLU, DR. O'BRIEN,
GERARD CONNOLLY, JOHN
FAYRAM, MARK W. BENNETT,
PATRICK STARK, WILLIAM
SOUPENE, NANCY KUCERA, JOHN
F. AULT, ED KNAPP, ANN E.
MOWERY, KRISTIE HIRSCHMAN,
JEAN EVEN, BARBARA VAN ALLEN,
TIENA ROUSH, LARRY BRIMEYER,

Defendants.

No. C06-0005-LRR

INITIAL REVIEW ORDER

This matter is before the court on the submission of a complaint pursuant to 42 U.S.C. § 1983 (Docket No. 1) and a motion to dismiss (Docket No. 3). The plaintiff submitted his complaint on January 5, 2006 and his motion to dismiss on January 20, 2006.

With respect to his complaint, the plaintiff submits neither the statutory filing fee nor an application to proceed in forma pauperis. *See* 28 U.S.C. § 1914(a) (requiring filing fee); 28 U.S.C. § 1915 (explaining proceedings in forma pauperis). Moreover, this action is clearly related to *Keniston v. Satyavolu*, C05-0180-DEO (N.D. Iowa 2005). That action is currently on appeal. Accordingly, it is appropriate to dismiss this action without prejudice.


Concerning his motion to dismiss, the plaintiff makes clear that he never intended to file this action. The plaintiff filed his motion to dismiss prior to service by the adverse

party of either an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a); L.R. 41.1(a). Accordingly, it is appropriate to grant the plaintiff's motion to dismiss.

IT IS THEREFORE ORDERED:

- 1) The plaintiff's motion to dismiss (Docket No. 3) is granted.
- 2) The Clerk of Court is directed to dismiss this action without prejudice.
- 3) The Clerk of Court is directed to file the complaint for the purpose of making a record.

DATED this 14th day of June, 2006.



LINDA R. READE
JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA